

Pharmacy Matters

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Unclaimed tax relief on properties

Do you own the freehold premises or are you looking to purchase the building from which the pharmacy operates?

If the answer to either of these questions is yes then you need to ensure that you claim any capital allowances available to you. There are many items in a pharmacy on which capital allowances can be claimed. The items which are not so obvious are classified as integral features and are inherent within of the building itself, such as heating, lighting, electrical systems, hot and cold water systems, cabling, pipework and air conditioning. There are also other items which are classified as fixtures, such as sanitary ware, which may also be included within the claim. As capital allowances reduce the taxable profits of a pharmacy they are extremely valuable, as there is no other relief for the cost of a building prior to its sale.

The Annual Investment Allowance was increased as of 1 January 2013 from £25,000 to £250,000 for a period of two years. Therefore any capital allowance claim in respect of a building acquired in this period is likely to attract a 100% deduction against taxable profits in the accounting period in which it is purchased. For a building acquired prior to this date it is likely that any claim will be restricted to the writing down allowance, which currently are either 18% or 8% per annum depending upon the nature of the fixture, thus spreading the relief over several years.



Existing owner of the pharmacy premises

If you currently own the freehold of the pharmacy premises and have not made a capital allowance claim then you will need to consider making a claim. From April 2014, when you come to sell the pharmacy premises you will need to have claimed capital allowances on fixtures in order to provide the purchaser with an agreed value for such fixtures and confirm that you have already made such a claim before the purchaser can make a claim based on that agreed value. Although this does not come into effect until April 2014 its impact is already being seen. For example, estate agents are now including capital allowance information within their

sales material. The lack of such information may cause a prospective purchaser to make a lower offer for the building.

If a capital allowance claim has not already been made prior to the sale the purchaser will almost certainly require the seller to make such a claim which could lead to completion being delayed.

Even if you are not thinking of selling the pharmacy freehold in the future, a capital allowance claim in respect of the building can reduce your taxable profits of the pharmacy. This will give you a cash flow benefit and potentially a permanent tax saving as described below. As part or all of the relief will be clawed back when the

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property is sold, due to the operation of the rules mentioned above, whether an overall tax saving is achieved is dependent upon your marginal tax rates, the value at which fixtures are sold and what has happened with the building between purchase and sale. For instance, if the heating system is entirely replaced after purchase then that element of fixtures attributed to the original heating system will never be clawed back as it no longer exists when the building is sold, hence for this element of the claim permanent relief will have been achieved.

Complications can arise when the property is owned outside the trading entity, for example by the shareholders of a company. Claiming capital allowances in these circumstances would require rent to be charged to the trading entity for use of the property. This can lead to restrictions on capital gains tax reliefs, and add a complication to subsequent property transfers between spouses. In such cases it is essential tax advice is taken beforehand so that your individual circumstances can be taken into account.

Acquiring the pharmacy premises

On acquisition of a freehold commercial property the opportunities for such capital allowance claims are now more restricted. This is because the 2012 Finance Bill requires a formal record of agreement ('ROA') for property transactions occurring after 1 April 2012 to be made between the two parties and evidenced in writing. The ROA will show how much of the purchase price relates to fixtures and will also stipulate to which fixtures it relates to. The identification of the fixtures within the agreement is required because as a result of the integral features legislation introduced in 2008 it is possible that some types of fixtures did not qualify for capital allowances as regards the seller but would do so now for the purchaser. As this joint election is irrevocable, the purchaser cannot subsequently try to allocate a higher proportion of the price to such items to reduce their taxable profits in the future. HM Revenue & Customs have stated that they expect

most agreements to be dealt with by an election being made under S198 or S199 CAA 2001, which must be prepared in a prescribed format if it is to be binding on both parties. However such an election can only be made if the seller has already claimed capital allowances on the fixtures concerned.

The ROA has to be submitted within two years of the transaction, otherwise no capital allowance claim can be made by the purchaser. However, HMRC will not accept a claim without the ROA being submitted. In practice, this means that the ROA will be prepared at the same time as the other sale documents. At that stage there is an incentive for both the purchaser and vendor to complete the election, whereas trying to get documentation signed by both parties several months after the transaction may prove difficult, if not impossible.

One can anticipate that there will be some interesting discussions as to the market value of the fixtures in the building. The vendor will probably want a low value to maximise his claim to capital allowances, whereas the purchaser will want a high value for the same reason. Whether purchaser or vendor, you will need to ascertain which items can be treated as fixtures for capital allowance purposes which will require some seeking questions being put to the seller.

Construction or refurbishment of a pharmacy

The construction or refurbishment of a pharmacy will lead to a capital allowance claim which in many cases will be a sizeable proportion of the cost. In order to maximise the potential claim it is important that full details are obtained from the architect/builder of the work being undertaken. Depending upon the nature of the refurbishment taking place, a significant proportion of the cost may be capable of being treated as repairs which attract a permanent 100% deduction from profits.

How we can help you

If you have purchased a pharmacy or had a pharmacy built or refurbished in the past, no matter how long ago, now is the time to review your circumstances in order to maximise your capital allowance claim and reduce taxable profits.

If you would like to discuss the above matters further please contact:



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